

DEC - 6 2024

UNITED STATES DISTRICT COURT

US DISTRICT COURT
WESTERN DISTRICT OF NC

for the

WESTERN District of NORTH CAROLINA

CHARLOTTE Division

Case No.

3:24-cv-1057-MR

(to be filled in by the Clerk's Office)

ONAR DUPRAZ CRITTINGTON

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

GARRY L. MCFADDEN

R. SHEPPARD, D. CAUTALINI

KEESE

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Omar Dupraz Crittington

All other names by which
you have been known:

Omar D. Crittington

ID Number

236358

Current Institution

Mecklenburg County Sheriff's Office

Address

700 East Fourth StCharlotteNC28202

City

State

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Garry L. McFaddenJob or Title (*if known*)Sheriff

Shield Number

Employer

MECKLENBURG COUNTY SHERIFF'S OFFICE (MCSO)

Address

700 East Fourth St.CharlotteNC28202

City

State

Zip Code

☐

Individual capacity

☒

Official capacity

Defendant No. 2

Name

P. SheppardJob or Title (*if known*)Administrative Hearing Officer

Shield Number

Employer

MCSO

Address

700 East Fourth StCharlotteNC28202

City

State

Zip Code

☒

Individual capacity

☒

Official capacity

Defendant No. 3

Name

Job or Title (if known)

Shield Number

Employer

Address

D. Cantalini
Administrative Sergeant
MCSO
700 East Fourth St.
Charlotte NC 28202
City State Zip Code
☒ Individual capacity ☐ Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

Heese
Administrative Captain
MCSO
700 East Fourth St
Charlotte NC 28202
City State Zip Code
☒ Individual capacity ☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☐ Federal officials (a *Bivens* claim)
☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

AMENDMENT I, IV, V, VIII and Intentional and harmful interference
XIV. denial of access to the courts with legal mail, Defense of religious
intentional or deliberately indifferent practices, Equal Protection clause
violation of the Due Process of Jail's disciplinary Proceedings.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Garry L. McFadden is the Sheriff of MCSO, P. Sheppard is a Hearing officer for the MCSO, D. Cantalini is a Sergeant at the MCSO, Keese is a Captain at the MCSO.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☒ Pretrial detainee
☐ Civilly committed detainee
☐ Immigration detainee
☐ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Claim #1 MECKLENBURG COUNTY SHERIFF'S OFFICE
JAIL CENTRAL pod 5700 The 18th of July 2024.
Claim # pod 62-30-42 The 24th of September 2024.

C. What date and approximate time did the events giving rise to your claim(s) occur?

Claim #1 The 18th-23rd of July 2024

Claim #2 September 24th - the 13th of October of 2024

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

On the 18th of July 2024 in pod 5700 Officer D. Maddox gave me a notice from the mail room. It stated: Crittington, Omar #236358. Your letter was stopped on 21 June 2024. Information regarding sensitive information was found in letter. Which indicated that the letter had already been read and information that violated the Jail's Rules were found. Therefor I asked

V. Injuries

Please see attachment Page,

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Claim #1 Loss of information anxiety, depression, mental anguish, economical deprivation mental duress, The right to petition the government. The right to be secure in my persons and papers. Deprived of property

Claim #2 The right to the Due process of law, deprived of life and liberty. Cruel and unusual punishment. Mental duress, anxiety, depression, mental anguish.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Claim #1 The sum of 5,000,000.00

Claim #2 The sum of 17,000,000.00 Also for the following items for inmates in D.D.U., Sheets and Blankets, Reading Book, to have rec without Handcuffs and 8oz Styrofoam cups.

Attachment #1

Claim #1

Statement of Claim

Officer D. Maddox at approx. 1530hr to call the mail room to find out what information in my letter was considered as "Sensitive". He got intuch with Admin. officer Brown. She said that she did not know anything about my letter and instructed D/o Maddox to call Admin. Sgt. Cantalini see that his department is the only one that can take that type of action with the mail. Sgt. Cantalini first response was that he knew nothing of the letter and they did not stop any of my mail from going out. D/o Maddox like myself was baffled and needed someone to make sense of the situation. So he called Ms. Brown back to inform her of the out come. She then asked him how I knew the letter had been stoped. He informed her of the notice that he just gave me. She told him that she would get back with him. She never got back to him that day. Which prompted me to tell officer Maddox about the letter which was wrote to the Supreme Grand Sheikh and Chairmen Bra. E. Brasuell-Bay of the Moorish Science temple of America, Temple #1 at 5001 S. Wabarrsh Ave, Chicago IL, 60615. I informed D/o Maddox that the letter was requesting legal forms for the change of Nationality because the jail don't provide the Moorish America's with any Religious literature through the chaplain nor the law library. Infact this is what the letter was stating. Which did infact make the content of the letter "Sensitive information," which should have never been opened by the mail room officers or Admin. Officers which is why I filed greivence # 1705408 on the 21st of July after D/o Maddox had called Ms. Brown back whom at this time got Admin. Sgt. Cubberson involved. Whom informed me to write a greivence knowing this was an act of Religious Discrimination. So it all came back down to Sgt. Cantalini, whom was the one holding my mail which came out when D/o Maddox called him back after Sgt. Cubberson

Said that he was the one I need to address. He stated that he read the letter and no sensitive information was found and the letter was sent out that day on the 23rd which means my letter was obstructed from going out for 32 days and that's in fact obstructing of Correspondence.

Claim #2 "Due process in Jail's disciplinary proceedings"

On the 24th of September 2024, I was sent to DDV for defending myself. I received a Notice of Hearing at approx. 1530hr. The same day. I noticed that I was being charged with a A2 violation which is a "Physical assault on staff/Inmate." The notice of hearing did not state a reason why I was being charged with a Major violation. (I know as a "Pretrial detainee" I still have rights to the Due process proceedings) and the Jail must meet the elements of due process during disciplinary proceedings. For example, (Inmate Bell is being charged with a A2 Physical assault on staff/Inmate, on such and such date and time Inmate Bell punched officer Right in the arm.) The preposess of the notice of hearing from is to inform me of the said action that violated the Jail's rules. So on the 25th (the next day) when hearing officer P. Sheppard came to do my hearing She was told that I was in medical. She came to medical and told me that she came to the pod to do my hearing which prompted me to inquire about the notice of hearing. She refused to give a response, in fact she rolled her eyes and left medical. Upon me returning to the pod the officer told me that she said that she would return. She never did, but approx. 1020hr TRU Officer's brought an inmate to DDV. TRU Officer Clegg stoped and asked me the out come of my hearing. I informed him that the hearing officer had not shown up. He gave me a strange look. I said what's that about? He then said that he was talking with Sgt. Cantalini and I

Should have got my hearing that morning. I asked why was I the topic. He said; You know your Boy Cantalini got it out for you so expect the worse. I asked him what he meant. He went on to say that Sgt. Cantalini told him that, "I don't trust Crittlington, I know he did it and I am going to make sure he get the max amount of time in DDU if we find the shank or not." I could not believe my ears. I thinked Clegg and aske him who was Sgt. Cantalini's Capten he said Keesee. The 26th when Hearing officer Sheppard came into the unit. I was on my way back to medical. When she was informed of this, she got upset with me stating; "I don't know why when I'm coming to see you your at medical, I don't know what you got going on with medical but..." I stoped her and informed her that I was an inmate and can't set any medical appointments. Then said, "we can do the hearing now." She refused and stormed off stating that she would come back. At approx. 1510hr. She returned with an attitude. She asked how do I Plea. I asked her what was I pleading to because the notice of hearing did not state a case of action. She asked how do I plea again. I said to self defence. (At this time I noticed that she kept cutting her eyes to the Inmate in cell #40 while moving to the opposite side toward's cell #42 which I didn't understand at the time.) She wrote that down stating "Oh so that's your statement!" I no what am I being charged with, inform me of that or are you going to keep attempting to argue with me about how I plea. She said for the fight (still cutting her eye's at cell #40.) I asked how am I being charged with assault for a fight... with that she backed a way then left the POD. On the 27th I received a Resident waiver/Disciplinary hearing disposition report. The form was uncompleated. It did not contain any Signature's nor date's the form stated that I pleaded guilty, were my statement should have went it only stated; I was defending myself,

and it did not give a written statement describing the reason for the disciplinary action taken. Which is three of the items that's required by law. I filed an appeal on 9/27/24 only for Sgt. Cantalini to deny it. I then filed a grievance to Cpt. Keese which was disregarded. So the 5th of October I went to medical hearing officer Sheppard came to get me from my appointment I took this time to address the way she unjustly handled my hearing. Well the conversation started with me telling a inmate that I was passing in the hall, the reason I was in D.D.U. and what day I was due to get out. Sheppard chimed in with "oh so know you know what you in D.D.U. for." I said, "regardless of if I did or did not it's a process that you all must go by that's one of them." She said, "Yeah but you was acting like you didn't know what was going on, and the guy next door to you was trying to show me his Dick so I left. You was going to get that time anyway that guy face was messed up." I asked her did the other guy get the same amount of days she refused to tell me.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

MECKLENBURG COUNTY SHERIFF'S OFFICE
700 EAST FOURTH ST, Charlotte N.C. 28202

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

Claim #1 and Claim #2

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 17 November 2024

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

Crittington, Omar D.
Omar D. Crittington
236358
P.O. Box 34429
Charlotte N.C. 28234
City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City State Zip Code

Telephone Number

E-mail Address

